Honorable Marc Barreca
Chapter 7

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

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|---|---|
| In Re:<br><br>ADAM R. GROSSMAN,<br><br>Debtor. | Case No. 10-19817 |
| UNITED STATES TRUSTEE,<br><br>Plaintiff,<br><br>v.<br><br>ADAM R. GROSSMAN,<br><br>Defendant. | Adversary No.<br><br>COMPLAINT TO DENY DEBTOR'S DISCHARGE |

The United States Trustee, for claims against defendant Adam R. Grossman (the "Defendant"), asserts and alleges:

**PARTIES**

1. The plaintiff is the United States Trustee for Region 18, which includes the Western District of Washington. The United States Trustee has standing to bring this action under 11 U.S.C. §§ 307 and 727(c)(1).

2. The Defendant is the debtor in the above-captioned chapter 7 bankruptcy case.

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## JURISDICTION AND VENUE

3. This is an adversary proceeding to deny the Defendant's discharge, brought pursuant to 11 U.S.C. §§ 727(a)(2), (a)(3), (a)(4), (a)(5), (a)(6) and Rule 7001 of the Federal Rules of Bankruptcy Procedure.

4. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(J).

5. Venue is proper pursuant to 28 U.S.C. § 1409(a).

## FACTUAL ALLEGATIONS

6. The Defendant has an undergraduate degree in Electrical Engineering and Computer Science from the Massachusetts Institute of Technology, and a Masters of Business Administration from the University of Pennsylvania.

7. On August19, 2010, (the "Petition Date"), the Defendant filed a voluntary chapter 11 petition in the Western District of Washington, case no. 10-19817 (the "Ch. 11 Case"). In conjunction with the Chapter 11 Case the Defendant filed schedules of assets and liabilities (each a "Ch. 11 Schedule" and collectively, the "Ch. 11 Schedules"), and a statement of financial affairs (the "Ch. 11 SOFA").

8. The Defendant signed the Ch. 11 Schedules and Ch. 11 SOFA under penalty of perjury as being true and correct.

9. The initial meeting of creditors in the Ch. 11 Case was held on September 28, 2010 (the "Ch. 11 Creditors' Meeting").

10. At the Creditors' Meeting, the Defendant testified that he had reviewed and signed the Ch. 11 Schedules and Ch. 11 SOFA, and that they were true and correct to the best of his knowledge.

11. The Ch. 11 Schedules do not include all of the Defendant's creditors on the Petition Date.

12. The Ch. 11 Schedules do not include all of the Defendant's liabilities on the Petition Date.

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13. Ch. 11 SOFA questions no. 1 and 2 do not disclose all of the Defendant's income in the two years prior to filing the bankruptcy including, without limitation, $217,398 received in 2009 in distributions from Terrington Davies Tanager Fund (the "Missing Income").

14. Ch. 11 SOFA question no. 10 does not disclose all applicable transfers.

15. Ch. 11 SOFA question no. 18 does not disclose all of the applicable information and entities.

16. The Defendant obtained loans from individuals during the Ch. 11 Case (the "Postpetition Loans").

17. The Defendant did not seek or obtain approval by the Bankruptcy Court of the Postpetition Loans and use of loan proceeds (the "Postpetition Loan Proceeds").

18. In September 2010, the Defendant gave an option (the "Option") on real property and received $20,000 in cash as part of the transaction (the "Option Cash").

19. The Defendant did not seek or obtain approval of the Option from the Bankruptcy Court.

20. Receipt of the Option Cash was never disclosed on monthly financial reports filed with the Bankruptcy Court.

21. The Defendant spent the Option Cash without seeking or obtaining approval of the Bankruptcy Court.

22. The Defendant has not produced documents evidencing use of the Option Cash.

23. On October 22, 2010, a motion for the appointment of a chapter 11 trustee was filed.

24. On November 16, 2010, the Bankruptcy Court entered the Order on Motion for Appointment of a Chapter 11 Trustee (the "Ch. 11 Trustee Order").

25. The Ch. 11 Trustee Order required the Defendant to file, within 48 hours of the December 3, 2010, continued hearing on appointment of a chapter 11 trustee, a statement as to what happened to $718,186 transferred out of various accounts between September 11, 2009, and October 1, 2010, and to include in the statement the dates of all transfers, the names and

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address of each transferee, the amount so transferred to each, and the reason for each such transfer (the "Accounting").

26. The Defendant never filed the Accounting.

27. Upon information and belief, the Defendant does not have records to evidence what happened to the $718,000 that was the subject of the Accounting (the "Transferred Funds").

28. On or about December 14, 2010, the Defendant sold substantially all of his assets to Keywest Financial, LLC (the "Keywest Transfer").

29. The Defendant did not seek or obtain approval by the Bankruptcy Court of the Keywest Transfer.

30. On December 17, 2010, the Bankruptcy Court granted the motion for appointment of a chapter 11 trustee, and Ronald Brown was appointed chapter 11 trustee (the "Ch. 11 Trustee") on December 22, 2010.

31. The Defendant received rent revenue after the appointment of the Ch. 11 Trustee (the "Rent Revenue") that the Defendant spent without the Ch. 11 Trustee's authorization.

32. The Ch. 11 Trustee made demands on the Defendant to turn over the Rent Revenue, and the Defendant did not turn over the money.

33. The Ch. 11 Trustee requested documentation from the Defendant about the collection and receipt of rent revenues (the "Rent Documentation").

34. The Defendant failed to provide the Rent Documentation to the Ch. 11 Trustee.

35. In February 2011, the Defendant paid the Tsai Law Group $29,500 (the "Legal Fee Payments") without the knowledge or consent of the Ch. 11 Trustee.

36. On March 11, 2011, the Ch. 11 Case was converted to chapter 7 (the "Ch. 7 Case").

37. Ch. 11 Trustee Ronald Brown was appointed as chapter 7 trustee (the "Ch. 7 Trustee").

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38. In March 2011, the Defendant executed deeds transferring his interest in various parcels of real property (the "Deed Transfers") without the knowledge or consent of the Ch. 7 Trustee.

39. After several continuances because of the Defendant's failure to appear and/or failure to file conversion schedules and statements, a meeting of creditors was held in the Ch. 7 Case on May 13, 2011.

40. On May 26, 2011, the Defendant filed conversion Schedules (the "Ch. 7 Schedules") and Statement of Financial Affairs (the "Ch. 7 SOFA").

41. The Defendant signed the Ch. 7 Schedules and Ch. 7 SOFA under penalty of perjury as being true and correct.

42. The Ch. 7 Schedules do not include all of the Defendant's creditors.

43. The Ch. 7 Schedules do not include all of the Defendant's liabilities.

44. Ch. 7 SOFA questions no. 1 and 2 do not disclose all of the Defendant's income in the two years prior to filing the bankruptcy.

45. Ch. 7 SOFA question no. 10 does not disclose all applicable transfers.

46. Ch. 7 SOFA question no. 18 does not disclose all of the applicable information and entities.

47. The Defendant withdrew tens of thousands of dollars in cash from various bank accounts in the year prior to the Ch. 7 Case, including, without limitation, $9,500 on July 30, 2010, from Chase Bank account no. xxx7065 (collectively, the "Cash Withdrawals").

48. The Defendant has failed to produce receipts or other documentation to evidence the use of all or a substantial portion of the Cash Withdrawals.

49. The Defendant deposited substantial sums of money into his accounts in the two years prior to the Ch. 7 Case (the "Deposits").

50. The Defendant has failed to produce documentation to evidence the source of many of the Deposits.

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**FIRST CLAIM FOR RELIEF**

11 U.S.C. § 727(a)(2)

(Transfer or Concealment of Assets)

51. Paragraphs 6 through 50 are hereby incorporated.

52. The Defendant, with intent to hinder, delay, or defraud a creditor or the Ch. 7 or Ch. 11 Trustee, transferred and/or concealed property within one year before the Petition Date and/or property of the estate after the Petition Date, including, without limitation:

a. the Missing Income;

b. the Postpetition Loan Proceeds;

c. the Option and Option Cash;

d. the Keywest Transfer;

e. the Rent Revenue;

f. the Legal Fee Payments; and

g. the Deed Transfers.

**SECOND CLAIM FOR RELIEF**

11 U.S.C. § 727(a)(3)

[Failure to Maintain Financial Records]

53. Paragraphs 6 through 50 are hereby incorporated.

54. The Defendant has failed to keep or preserve recorded information from which his financial condition or business transactions might be ascertained including, without limitation, with respect to:

a. the Missing Income;

b. the Keywest Transfer;

c. the Option Cash;

d. the Rent Revenue;

e. the Transferred Funds;

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f. the Cash Withdrawals; and

g. the Deposits.

55. Any failure by the Defendant to maintain or preserve financial records was and is not justified under all the circumstances of the case.

**THIRD CLAIM FOR RELIEF**

11 U.S.C. § 727(a)(4)(A) & (D)

(False Oaths or Accounts & Withholding of Financial Information)

56. Paragraphs 6 through 50 are hereby incorporated.

57. The Defendant signed the Ch. 11 Schedules, Ch. 11 SOFA, Ch. 7 Schedules, and Ch. 7 SOFA under penalty of perjury as true and correct, when they were in fact materially false.

58. The Defendant testified that the Ch. 11 Schedules and Ch. 11 SOFA were true and correct, when he knew that they were not.

59. The false oaths relate to material facts.

60. The false oaths were made with fraudulent intent.

61. The false oaths were made in or in connection with the case.

62. The Defendant knowingly and fraudulently withheld recorded information from the Ch. 7 Trustee and Ch. 11 Trustee.

**FOURTH CLAIM FOR RELIEF**

11 U.S.C. § 727(a)(5)

(Failure to Explain Loss of Assets)

63. Paragraphs 6 through 50 are hereby incorporated.

63. The Defendant cannot satisfactorily account for, without limitation:

a. the Transferred Funds;

b. the Option Cash;

c. the Rent Revenue; and

d. the Cash Withdrawals.

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**FIFTH CLAIM FOR RELIEF**

11 U.S.C. § 727(a)(6)

(Denial of Discharge for Refusal to Obey Order)

64. Paragraphs 6 through 50 are hereby incorporated.

65. The Defendant refused to obey the Ch. 11 Trustee Order.

WHEREFORE, the United States Trustee prays for relief as follows:

A. That the Court enter a judgment denying the discharge of the Defendant pursuant to 11 U.S.C. §§ 727(a)(2), (a)(3), (a)(4), (a)(5), and (a)(6); and

B. For such other and further relief as the Court deems just and equitable.

DATED this 21st day of September, 2011.

Respectfully submitted,

Robert D. Miller Jr.
United States Trustee

By: /s/ Martin L. Smith
Martin L. Smith, WSBA #24861
Attorney for United States Trustee

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